

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 19, 2002
(Approved March 5, 2002)

CALL TO ORDER/NOTING OF QUORUM

Chairperson DePrez called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass, Commissioner Davis and Commissioner Marks. Also in attendance were Superintendent Davis, Executive Secretary Steiner and Industry Liaison Okey.

Ronna Chappell of ILBA, Jim Purucker of WSWI, Brian Tuohy, Clay Patton and Todd Geisness of USDP, Peter Rusthoven and Jerimi Ullom of Barnes & Thornburg, Jim Howard of Indiana Wholesale, Lisa Goldner of Bose McKinney & Evans, Joe Quill, Tom Ristine and Jim Calvert were present as observers.

COMMUNICATIONS FROM THE FLOOR

INDIANA WHOLESALE WINE & LIQUOR COMPANY – Transcript of discussion is part of the minutes by exhibit.

DISPOSITION OF MINUTES

Commissioner Marks moved to approve the minutes that were submitted for the February 5, 2002 meeting. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

Vice Chairperson Glass moved to approve the PAD forms that were submitted for the February 19, 2002 meeting, pending Chairperson DePrez's approval. Motion seconded by Commissioner Davis and it was unanimously approved.

DL46-19023 LIQUOR VAULT, LLC – Hearing Judge Steiner stated this was a recommended denial by the LaPorte County Local Board and an upholding of that recommendation by the Commission. The applicant filed a timely appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Davis moved to uphold the Hearing Judge's recommendation to deny this permit. Motion seconded by Commissioner Marks and it was unanimously approved.

DL41-18911 THORNTON OIL CORPORATION – Hearing Judge Steiner stated this was a recommended denial by the Johnson County Local Board and an upholding of that denial by the Commission. The applicant filed a timely appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Marks moved to uphold the Hearing Judge’s recommendation to reverse the local board and approve this new permit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

DL41-18884 AMERICAN OIL COMPANY - Hearing Judge Steiner stated this was a recommended denial by the Johnson County Local Board and an upholding of that denial by the Commission. The applicant filed a timely appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Glass moved to uphold the Hearing Judge’s recommendation to reverse the local board and approve this new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR64-18947 THE K CORPORATION - Hearing Judge Steiner stated this was a recommended approval by the Porter County Local Board and an upholding of that approval by the Commission. The remonstrators filed a timely appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Marks moved to uphold the Hearing Judge’s recommendation to approve this new permit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEAL OF HEARING JUDGE’S RECOMMENDATIONS

There were no Appeals of Hearing Judge’s Recommendations.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and

hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks and it was unanimously approved.

Six hundred six (606) renewals approved, forty-five (45) new and/or transfer permits approved, twenty-three (23) permits conditionally approved, five (5) permits approved for first year escrow, and three (3) permits approved for second year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Marks moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL10-19335 K-MART OF INDIANA, GP – Vice Chairperson Glass noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR10-18398 TEDESCO'S AUTHENTIC ITALIAN PIZZERIA LLC – Vice Chairperson Glass noted this is a type 209 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to remand this application to the local board due to the fact that the local board stated the permittee does not qualify, however, no tape was made of the proceedings and the Commission has no evidence to review. Motion seconded by Commissioner Davis and it was unanimously approved.

RR10-19283 TEDESCO'S AUTHENTIC ITALIAN PIZZERIA LLC – Vice Chairperson Glass noted this is a new type 112 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to remand this application to the local board. It was denied due to the fact that the applicant did not appear, however, applicant may not have received notice of the local board hearing. Motion seconded by Commissioner Davis and it was unanimously approved.

RR22-19282 TEDESCO/HILLDEBRAND FOOD SERVICES LLC - Vice Chairperson Glass noted this is a new type 112 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to remand this application to the local board. It was denied due to the fact that the applicant did not appear, however, applicant may not have received notice of the local board hearing. Motion seconded by Commissioner Davis and it was unanimously approved.

RR02-09516 WIMDALE, INC. – Vice Chairperson Glass noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the renewal. Motion seconded by Commissioner Marks and it was unanimously approved.

DL27-19433 LEBAMOFF ENTERPRISES, INC. – Vice Chairperson Glass noted this is a new type 217 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to remand this application to the local board. It was denied due to the fact that the applicant did not appear, however, applicant may not have received notice of the local board hearing. Motion seconded by Commissioner Davis and it was unanimously approved.

RR28-19003 AND RR28-18948 RUMORS SPORTS BAR, INC. – Vice Chairperson Glass noted this is a type 112 and a type 210-1 transfer of ownership application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the transfer. Motion seconded by Commissioner Davis and it was unanimously approved.

RR54-01494 CARLA J. HURT – Vice Chairperson Glass noted this is a type 210 transfer of location and ownership application with the local board voting three (3) to one (1) to disapprove the transfer of location and voted four (4) to zero (0) to approve the transfer of ownership.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the transfer of location and approve the transfer of ownership. Motion seconded by Commissioner Davis and it was unanimously approved.

DL32-19472 COST PLUS, INC. – Vice Chairperson Glass noted this is a new type 115 application with the local board voting two (2) to one (1) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR29-19592 INTERBODY, INC. – Vice Chairperson Glass noted this is a new type 210 application with the local board voting three (3) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the new permit. Motion seconded by Commissioner Marks and it was unanimously approved.

PHEALY ENTERPRISES, INC. – Vice Chairperson Glass noted the applicant is requesting permission to file for a type 112 permit and a type 210-1 permit simultaneously.

Vice Chairperson Glass moved to approve this request. Motion seconded by Commissioner Davis and it was unanimously approved.

INACTIVE FILES

Commissioner Marks moved to make twenty (20) permits inactive. All twenty permits are not subject to auction. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR44-04371 FRED AND SUE MANN, INC. – Commissioner Marks stated this was a recommended denial by the LaGrange County Local Board and an upholding of that denial by the Commission. The applicant filed an appeal and was again denied by the Commission. Mr. Mann has had ample opportunity to find a legitimate buyer and transfer this permit, however, he has not succeeded.

Commissioner Marks moved to make this permit inactive. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

DL89-05984 PAYLESS LIQUORS, INC. – Chairperson DePrez stated this appeal will be assigned to a hearing officer and scheduled for an appeal hearing.

RR45-19284 DÉJÀ VU SHOWGIRLS OF HAMMOND, INC. – Hearing Judge Steiner requested that he be allowed to recuse himself from this appeal due to the fact that he may be called as a witness in the case.

Commissioner Davis moved to approve this request. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

CATHEDRAL HIGH SCHOOL “SHAMRAUCTION” – Cathedral High School is requesting permission to auction donated alcoholic beverages at their Shamrauction.

CARMEL DAD’S CLUB CABERNET SAUVIGNON WINE TASTING – Carmel Dad’s Club is requesting permission to hold a wine tasting.

CARMEL DAD’S CLUB CARMEL FOOD AND WINE TASTING – Carmel Dad’s Club is requesting permission to hold a wine tasting.

INDIANAPOLIS CHAMBER ORCHESTRA “AN EVENING SERENADE” – Indianapolis Chamber Orchestra is requesting permission to auction donated wine.

INDIANAPOLIS MUSEUM OF ART ALLIANCE DINNER PARTY – Indianapolis Museum of Art is requesting permission to serve donated alcoholic beverages.

SUPERVISOR’S COUNTRY CLUB “WINE TASTING PARTY” – Supervisor’s Country Club is requesting permission to hold a wine tasting.

WASHINGTON TOWNSHIP SCHOOLS “CELEBRATING 15 YEARS OF GIVING” DINNER AND DANCE – Washington Township Schools is requesting permission to serve donated alcoholic beverages.

POLICY DETERMINATIONS

There were no Policy Determinations.

UNDER ADVISEMENT

There was nothing Under Advisement.

ANNOUNCEMENTS

There were no Announcements.

ADJOURNMENT

Vice Chairperson Glass moved to adjourn the meeting. Motion seconded by Commissioner Marks and it was unanimously approved.

Approved this _____ day of _____, 2002.

MARY DEPREZ, CHAIRPERSON

BARBARA L. GLASS, VICE CHAIRPERSON

JAMES DAVIS, COMMISSIONER

GIGI M. MARKS, COMMISSIONER